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U.S.

PG&E's Long Record of Run-Ins With Regulators: A 'Cat and Mouse Game'

Over more than two decades, the California utility has at times misled regulators, withheld data and hindered investigations—accumulating fines and judgments of \$2.6 billion

By Rebecca Smith / Graphics by Joel Eastwood

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SAN FRANCISCO—The company had several warnings.

In-house audits at PG&E Corp. as early as 2010 said workers were falsifying records of ground-marking at excavation sites intended to protect buried electricity cables and gas pipelines. The workers made it appear they were keeping up with their workload when they were not.

Midlevel managers told higher-ups by 2014 that an ambitious program director was pressuring people to burnish on-time results, according to sworn testimony from utility employees to a California regulator.

The utility's response? It removed the midlevel managers, promoted the program director and reported as fact figures it had been given reason to doubt, according to the testimony and a state investigative report.

Confronted by state regulators, who plan hearings on the episode this fall, PG&E said it had provided the best information it had. It said employee conduct “fell short of the high standards of integrity and the ethical action to which the company is committed.”

It was no anomaly. The Wall Street Journal identified repeated instances over 25 years in which PG&E misled regulatory authorities, withheld required information, didn't

follow through on promised improvements, engaged in improper back-channel communications with regulators or obstructed an investigation.

The company has paid more than \$2.6 billion in state and federal penalties and lawsuit settlements in such cases. While the penalty came to less than \$1 million in about a half-dozen of the incidents, it was much more in other cases, some of them involved death and heavy property destruction, and regulators consider all violations that involve safety to be serious matters. Asked about the cases, the company said they were part of the public record and it had little additional comment.



A fire roared through a San Bruno, Calif., neighborhood after a PG&E gas-pipeline explosion on Sept. 9, 2010, killing eight and destroying dozens of houses.

PHOTO: MICHAEL SAH/ASSOCIATED PRESS

Once a pillar of the California corporate establishment, PG&E now is in bankruptcy court because of its role in accidentally causing wildfires, for which it has said its liability might exceed \$30 billion. PG&E also is under federal probation, following felony convictions for violating gas pipeline safety laws in a San Bruno, Calif., explosion that killed eight people and for obstructing a federal investigation.

Several close observers of PG&E said they witnessed a pattern of conduct over the years that troubled them because it seemed to violate norms of behavior for California utilities. “PG&E, in comparison to others, stands apart,” said Mark Ferron, a former member of the California Public Utilities Commission.

For years, he said, PG&E seemed to play a “cat and mouse game” with regulators of doing what it wanted and waiting to see if it got caught, which he said was unfortunate because the utilities commission “is not a particularly adroit cat.”

Catherine J.K. Sandoval, another former utilities commissioner and now a Santa Clara University law professor, said PG&E has “a trust issue and a conduct issue,” and it violates rules of conduct so often it amounts to a pattern. “They are definitely the worst” among the utilities she oversaw, she said.

A federal judge, William Alsup, referred in a January order to what he called “PG&E’s history of falsification of inspection reports.”

Such behavior, persisting through multiple corrective-action plans, reorganizations and five chief executives, complicates things for the public officials now overseeing the company. Their problem is how to restore both solvency and safety to a critically important institution—it provides gas and electricity to more than 16 million people—if they can’t trust it to do what it says and it doesn’t seem to be chastened by penalties or public shaming.

“The commission has tried to rein PG&E in using the traditional tools of regulation—increasing fines and removal of responsible parties—and those tools haven’t worked,” said Darwin Farrar, chief counsel of the state utilities commission’s Public Advocates Office, in an email. Mr. Farrar wrote in a July public filing that PG&E “has dealt with the Commission dishonestly.”

For new leaders who joined the big San Francisco utility in April, including 10 directors and a new chief executive, it adds up to the central challenge of winning back trust as they try to pull the company out of its deep hole.



The demolition of a PG&E power plant at Bakersfield, Calif., led to a fatal worker injury. PG&E was later penalized \$5.6 million for not adequately monitoring a contractor's work.

PHOTO: CASEY CHRISTIE/THE BAKERSFIELD CALIFORNIAN/ZUMA PRESS

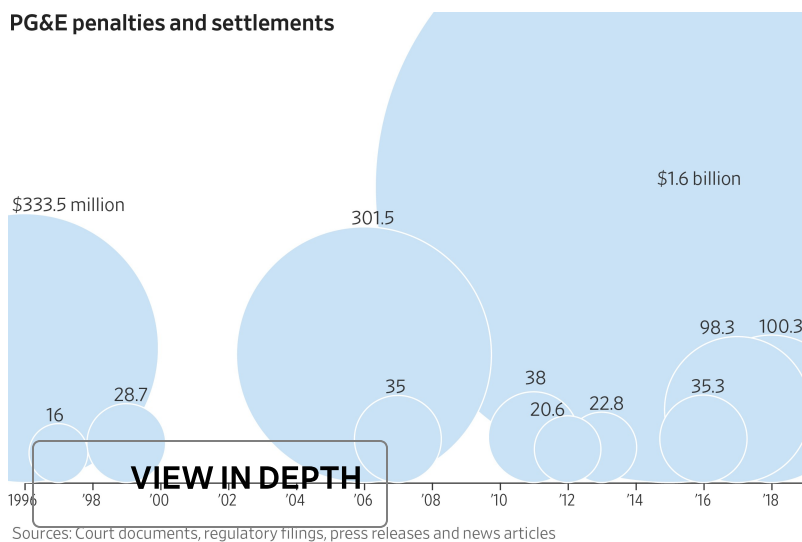
CEO Bill Johnson said in an interview he is committed to “transparency and openness and telling the truth as fast as we can.”

He noted that PG&E is an old company, and “things accrete over time.” Asked about its record of sometimes being less than forthright with regulators and the public, Mr. Johnson didn't address that notion directly but said: “We're not going to be slippery, and we will make decisions based on what's best to serve our customers.”

Chairwoman Nora Mead Brownell acknowledged the company's reputation is badly damaged. “We've made it very clear that we, personally and professionally, have to have the highest standards of truthfulness and honesty,” she said.

PG&E Penalties and Settlements Through the Years

PG&E penalties and settlements



Mr. Johnson and the new directors arrived not long after Pacific Gas & Electric Co., the operating unit of PG&E Corp., filed for bankruptcy protection in January for the second time in two decades, citing fire liabilities. The utilities commission since 2015 has been studying what to do about PG&E's safety culture. According to state fire officials, its record includes accidentally

starting fires that killed 107 people in 2017 and 2018, destroyed 22,000 buildings and burned 350,000 acres.

SHARE YOUR THOUGHTS

What does PG&E, which is in bankruptcy court, need to do to get back on track and improve its safety record? Join the conversation below.

On July 10, Judge Alsup, overseeing PG&E's federal probation, ordered the company to respond, paragraph by paragraph, to a Journal article saying PG&E long knew it had power lines that could spark fires but failed to perform necessary upgrades to towers and other equipment. The judge told the company to give him a clear answer and not bury him in thousands of pages of records, which he said it had done in the past.

In its response, PG&E acknowledged it had long known its aged high-voltage lines could fail and trigger fires, and had delayed some upgrades to the line that broke in November and sparked the Camp Fire that ravaged the town of Paradise. But PG&E denied it had neglected maintenance, saying the delayed upgrades weren't related to maintenance but rather to design, such as the height of lines above the ground.

Twenty-two years earlier, in a makeshift courtroom at the defunct Bouzy Rouge Saloon in Nevada City, Calif., PG&E faced criminal charges stemming from a different fire. Though that one was relatively small, the case raised an integrity issue as prosecutors presented evidence PG&E for years asked for money for tree trimming but then diverted millions for other things.

“Utility managers and contractors urgently warned upper-level management that these cutbacks were causing dangerous conditions,” former prosecutor Jenny Ross said in a recent interview. “PG&E has always talked a good game about safety,” she said, but “they cut corners.”

A jury convicted PG&E in 1997 of more than 700 misdemeanors, many involving power lines in contact with trees. It was fined \$2 million.

In 1996 and 2006, PG&E settled lawsuits alleging it contaminated drinking-water sources in and around Hinkley and Kettleman City, Calif., with a carcinogenic form of chromium and deceived residents—agreeing to pay about \$628 million in the cases that made legal clerk Erin Brockovich famous. Ms. Brockovich now is helping victims of the Camp Fire sue the utility.



Erin Brockovich, seen in September 2000, played a key role in litigation against PG&E over groundwater contamination with a carcinogenic form of chromium.

PHOTO: KIM D. JOHNSON/ASSOCIATED PRESS

Following a series of contractor deaths and injuries, PG&E said in a 2015 settlement with regulators it understood it couldn't delegate its safety responsibilities. It pledged to pre-qualify all contractors and subcontractors who would be doing risky work on its behalf and monitor job sites, and said this plan was implemented by the end of 2016.

Three and a half months later, a tree trimmer named Jorge Moctezuma Garcia climbed a dead Ponderosa pine in Twain Harte, a town in the Sierra Nevada. Up 94 feet, he positioned himself to top the 136-foot tree's spire.

Suddenly, crew members heard a loud crack and the tree snapped, throwing the 21-year-old to the ground. He died of traumatic injuries. It was his second day on the job.

Mr. Garcia's employer was Kentucky-based Action Tree Service LLC, a subcontractor to PG&E contractor Trees Inc. Action Tree couldn't provide documentation Mr. Garcia

had received skills-and-safety training, according to a state investigative report, reviewed by the Journal after a public-records request.

The report also said Action Tree didn't have the necessary workers' compensation and liability insurance. In addition, it said a firm that did a tree survey had recommended using a crane for removing this one.

Action Tree's owner, Nicholas Downey, said he didn't know until after the accident that a crane was recommended. He said he thought he had insurance, but he said his broker never obtained it. He said his company tested Mr. Garcia and felt his skill level was adequate.

Mr. Garcia's mother and his widow, living in Mexico, filed a negligence suit. PG&E and Trees Inc., now called Trees LLC, settled in October 2018 with what people with knowledge of the matter said was a payment to the family. Mr. Garcia's sister, Elvia Moctezuma Garcia, said her brother was trying to earn enough to build a small house in Mexico for his bride.

PG&E said it is "always concerned about the safety and health of our employees, contractors and customers," and it continues to share "thoughts and prayers" with Mr. Garcia's family.

The incident that led to PG&E's federal probation was a 2010 pipeline explosion and fire in San Bruno, Calif., that killed eight people and destroyed or damaged more than 100 houses. PG&E told a court that nearby sewer-line work could have damaged its "state-of-the-art pipeline." In fact, PG&E's pipeline was so defective the company must have overlooked or ignored welding standards when building it out of scraps a half-century earlier, the National Transportation Safety Board said after an investigation.

One of 2,425 violations for which the state utilities commission penalized PG&E \$1.6 billion was impeding its investigation and giving it false information.

PG&E said it was unaware of records inaccuracies before the accident, and said its violations weren't intentional.

The state utilities commission found in 2008 that PG&E had engaged in improper back-channel communications with regulators. In lieu of penalties, it let the utility create a program to prevent future violations.

The commission later learned that improper communications had resumed a short time afterward. In 2018, it fined the utility \$97.5 million for violations of fair-contact rules from 2010 to 2014, including trying to influence judge selection.

PG&E said three executives left after the latter set of infractions came to light, and it created a new post of chief ethics and compliance officer.

PG&E's program for marking spots where contractors plan to dig might never have been investigated but for the way the company dealt with employees who raised alarms.

In a nationwide system, contractors planning to dig in streets or yards must first call 811 to make sure they won't hit a pipeline or electrical cable. Local utilities then have two working days to mark any such locations with spray paint or flags.

At PG&E, this task fell to employees called locators. About 200 of them plus seasonal workers had to process up to 900,000 "Locate and Mark" work orders a year, a job with high stress and turnover, a former PG&E superintendent named Katherin Mack told state utility investigators, according to a transcript of her sworn interview with the California Public Utilities Commission's Safety and Enforcement Division.

Locators discovered they could freeze the clock, preventing a work order from registering as late, by methods such as saying they had negotiated a later excavation date, according to several employees as well as consultants PG&E hired to investigate problems with the program.

PG&E's quality-assurance team looked at the program in 2009 and told higher-ups the next year that "incorrect data is being used to report on-time results," said a report by the Safety and Enforcement Division. In 2011, PG&E's Internal Audit team similarly warned company executives that on-time results "cannot be relied upon."



PG&E was fined \$14 million in 1997 for withholding data on harm to sea life from the cooling system of the Diablo Canyon nuclear facility, above.

PHOTO: ROGER RESSMEYER/CORBIS/VCG/GETTY IMAGES

Around 2013, the Locate and Mark unit came under the oversight of Joel Dickson, director of PG&E's Gas Operations and Compliance Programs, a local celebrity as a former defensive captain for the University of California, Berkeley football team. Ms. Mack said Mr. Dickson soon announced there were to be "zero late tickets." She said he grew angry at supervisors when locators missed deadlines, resulting in late tickets, sometimes asking her, "Do I need to fire them?"

The number of late tickets plunged to 44 in 2016 from 13,547 in 2013. Despite the internal audit saying on-time results couldn't be relied on, PG&E provided them to the state regulator when it began asking questions in 2017. Consultants to PG&E later came up with far higher numbers.

Ms. Mack told regulators she and several supervisors informed PG&E's senior director of gas operations, John Higgins, that locators were entering false data because they were overworked and feared for their jobs.

Mr. Higgins, she said, replied that he hadn't directed anybody to cut corners.

Ms. Mack lost her position as a superintendent in the Locate and Mark program in early 2017, which she told investigators she thought was because of her complaints. She later found a job in the company's electricity division, swallowing a demotion and pay cut.

Around the same time, PG&E promoted Mr. Higgins to vice president of safety and health. He has since left PG&E and didn't return calls seeking comment.

The company promoted Mr. Dickson to senior director of transportation services in early 2017. He also has since left PG&E and declined interview requests.

A lawyer for Mr. Dickson said his client "never pressured PG&E employees to falsify documents. What he did was encourage PG&E employees to comply with California law" requiring prompt execution of work orders.



A PG&E substation near San Jose was attacked by snipers in 2013.

PHOTO: BRIAN L. FRANK FOR THE WALL STREET JOURNAL

A senior manager in quality management named Jennifer Burrows also said she told superiors about problems with locators violating procedures, according to a transcript of her interview with investigators. After that, Ms. Burrows told investigators, she was excluded from meetings at which she formerly presented her findings. In early 2017, PG&E eliminated her position and she took a lateral assignment in the electricity division.

David Appelbaum was a manager PG&E recruited in 2013 from the federal Pipeline and Hazardous Materials Safety Administration. He formed a unit at PG&E to investigate causes of “dig-in” accidents in which excavators strike buried pipelines or electrical cables.

He was disturbed by some PG&E practices, such as going after contractors to pay for dig-in damage when the company bore some responsibility because it hadn’t marked a site on time or had made mistakes, according to a transcript of what he told investigators. He said he complained to Mr. Higgins and others.

After he complained, his unit was put under Mr. Dickson's oversight, Mr. Appelbaum said. From then on, he said, the team was pressured to go easy on PG&E and he was reprimanded for sharing information with regulators.

PG&E fired Mr. Appelbaum in September 2015, saying he had violated its code of conduct. Mr. Appelbaum denied that and filed suit, invoking California law's whistleblower protections and alleging wrongful discharge, which PG&E denied. Court records show the suit was settled in 2018 with a PG&E payment to Mr. Appelbaum.

Mr. Appelbaum returned to the federal pipeline-safety agency, where his boss asked him about his stint at PG&E and he wrote a memo about it, according to the California utilities commission. This memo formed the basis of an investigative referral to the commission.



After the Butte Fire at Sheep Ranch, Calif., in September 2015, PG&E was penalized \$8.3 million for violations related to it, including failing to timely notify officials of suspicions that some of the utility's equipment sparked the fire.

PHOTO: ANDREW SENG/SACRAMENTO BEE/ZUMA PRESS

After months of interviews by its safety and enforcement arm, the commission opened a formal investigation at the end of last year. In March, PG&E filed an 832-page response. Among other things, it disputed assertions by state investigators and its own consultants that it was "common knowledge" the Locate and Mark system was being abused.

PG&E acknowledged the program was understaffed and said it was hiring more people. It denied that upper management understood the depth of the problem and said that workers' fudging on-time results, in fact, had the effect of hiding the program's problems. Once "the issues came to the attention of PG&E leadership in March 2017," it said, the company took "aggressive and quick actions."

It also said it thought software fixes in 2012 had solved the problem, but now is designing its own work-management software.

PG&E said there were 67 dig-in accidents involving gas facilities from 2012 to February 2017 where late tickets "may have been a contributing factor," although it said it still doesn't know for sure how many tickets were doctored.

The utility declined to comment on the three midlevel managers who said they raised alarms about the program. It said it doesn't comment on personnel matters.

PG&E said it encourages employees to speak up if they perceive a safety issue or some form of misconduct. It added, "Fostering this culture takes continual effort."

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